IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : R.S.A.No.525 of 2004
Date of Decision : September 08, 2006.

Ram Kumar, Ex-Clerk ..... Appellant

Vs.

Haryana State ..... Respondent

Coram : Hon'ble Mr.Justice P.S.Patwalia

* * *

Present : Mr.S.K.Jain, Advocate
for the appellant.

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P.S.Patwalia, J. (Oral) :

The present Regular Second Appeal has been filed against judgment of the learned Civil Judge (Senior Division), Jind and the learned Additional District Judge, Jind whereby suit filed by the plaintiff was dismissed and first appeal filed by him was also dismissed.

In the suit the plaintiff had challenged the adverse confidential report for the year 1984-85 where his character and honesty had been recorded as doubtful. He had also challenged report for the year 1988-89 wherein the column of honesty the same is recorded as not being very good. He further claimed that he should be promoted with effect from

28.11.1988 with all consequential benefits and that the order dated 27.6.1994 retiring him prematurely be also set aside.

A perusal of the facts would show that against the report of the year 1984-85 plaintiff had earlier also filed a civil suit being Suit No.324 of 3.6.1988 which was decreed and the report of the year 1984-85 was held to be null and void. However liberty was given to the reporting officer to again record the same. Thereafter plaintiff filed yet another suit being Civil Suit No.444 of 1991 claiming promotion from 10.9.1991. This suit was dismissed by the trial court on the ground that the plaintiff had not challenged the re-written report of the year 1984-85. It may be mentioned here that report of the year 1984-85 was again written to be adverse by the respondents and the integrity of the plaintiff was again doubted in the same. In the appeal against the judgment of the trial court dismissing the suit, the plaintiff filed an application stating that he wished to withdraw the same and challenge the re-written report and also claim other benefits by filing a fresh suit. This liberty was given and hence the present suit was filed.

Both the courts below have again dismissed the suit after finding that the report of the plaintiff as re-written for the year 1985-85 also contained remarks doubting his integrity and the report for the year 1988-89 also stated that his integrity was average. In the column regarding reputation for honesty, it was also mentioned that members of the staff had complained that their bills are withheld by him unnecessarily. On this basis the suit filed by the plaintiff was again dismissed. Learned counsel for the plaintiff contended that in the basic report for the year 1984-85 the complaint was regarding issuing of arms licenses. He submits that a reading of the statement of PW-3 would show that he has stated that the plaintiff

was not working on the seat of issuing license of arms. Hence he states that there was no basis to record the said finding. I however find no merit in this argument.

Shri R.C.Rao, the then S.D.M., Narwana has appeared as DW2. His statement as extracted by the trial court is as hereunder :-

> ***"16.*** *Sh.R.C.Rao had appeared in the witness box as DW-2 and he had stated that in the year 1984-85 he had remained posted as S.D.M., Narwana. He had received complaint against Ram Kumar, Clerk, plaintiff that he had gone to Singapore without any permission from the department. Regarding this he had written a D.O. Letter Ex.DW-2/A to the D.C. Jind against the plaintiff and a notice was issued to the plaintiff for his irregularities. One confidential letter Ex.DW-2/B was also issued vide which the plaintiff had not given the details of movable and immovable property. He had stated that he had received oral complaints against the plaintiff that the plaintiff had been issuing Arms Licenses and driving licenses to several residents of Punjab and he had not deposited the amount of fine in the Govt. Treasury, regarding this matter, he had mentioned in the A.C.R. of the plaintiff in the year 1984-85 in which he had recorded that the integrity of the plaintiff was doubtful. In one letter this witness*

has stated that he had received several oral complaints against the plaintiff Ram Kumar. Before taking any action he wanted to convince himself so he had given a surprise checking in the office and found that the various registers were scattered on his table which were not issued to the concerned party. Regarding the delayed custody fees in the Govt. office no fees was ever taken by the plaintiff, neither the same was deposited in the Govt. Treasury. Hence, loss was caused to the state exchequer.

17. *In the cross examination, the plaintiff had not attributed any malafide or any ulterior motive of Sh.R.C.Rao the then SDM, Narwana as to why he should given a false report in the A.C.R. of the plaintiff for the year 1984-85 regarding his integrity doubtful. Hence the A.C.R. for the year 1984-85 given by Sh.R.C.Rao the then SDM, Narwana, cannot be declared as null and void and are not liable to be set aside as they are not against law and facts."*

It is on this basis that the report for the year 1984-85 has been upheld. It may be mentioned here that Shri Rao had to re-write this report as a result of earlier suit filed by the plaintiff. Even then he stuck to his original assessment. In view of this report of doubtful integrity the trial court concluded that there was no infirmity in the order of premature

retirement and the claim for promotion was declined by deciding issues no.1 to 4 against the plaintiff. The findings recorded by the trial court have been confirmed by the lower appellate court. I find no error in the same. I therefore find no substantial question of law arising for determination in this Regular Second Appeal. The same is accordingly dismissed.

September 08, 2006 (P.S.Patwalia)
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